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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 ROOFTOP DIGITAL IMAGING, LLC,
8 Plaintiff(s),
9 v.
10 PARAMOUNT VISUJALS COMPANY, INC.,
11 Defendant(s).

Case No. 2:18-cv-526 JCM (PAL)
TEMPORARY RESTRAINING ORDER

12
13 Presently before the court is the matter of *Rooftop Digital Imaging, LLC v. Paramount*
14 *Visuals Company, Inc.*, case number 2:18-cv-00526-JCM-PAL.

15 Plaintiff Rooftop Digital Imaging, LLC (“plaintiff”) has filed a motion for temporary
16 restraining order pursuant to Federal Rule of Civil Procedure 65 and NRS 33.010. (ECF No. 1).

17 Plaintiff alleges that defendant Paramount Visuals Company, Inc. (“defendant”) is
18 contacting vendors or current and former clients of plaintiff’s and is representing to third parties
19 that it has ownership interest in plaintiff and that it has authority to act on behalf of plaintiff. *Id.*

20 This case arises out of a breakdown in negotiations between plaintiff and defendant relating
21 to a potential buyout/merger of the two companies. (ECF No. 1). An agreement to agree was
22 executed by the parties setting forth preliminary terms and obligations of each party to begin the
23 buyout/merger process. *Id.*

24 On September 3, 2017, the parties entered into a non-disclosure agreement (“NDA”). (ECF
25 No 1). Pursuant to the NDA, defendant was to maintain confidential information it obtained
26 through its dealings with plaintiff. *Id.* Plaintiff provided defendant with significant confidential
27 information relating to customer lists, pricing, and vendors. *Id.*
28

1 On December 31, 2017, the parties executed a one-page purchase agreement. (ECF No.
2 1). Plaintiff argues that the terms of this agreement indicated it was preliminary and that a more
3 detailed agreement including specific terms was to follow. *Id.* No more formal agreement
4 followed. *Id.* Further, at no point did defendant request or pursue a formal transfer of ownership
5 of plaintiff. *Id.*

6 Plaintiff contends that the basis for the buyout/merger was the purported financial stability
7 defendant offered. (ECF No. 1). In early February 2018, plaintiff began to express concerns as to
8 defendant's ability to meet its financial obligations under the purchase agreement. *Id.* The parties
9 then entered into negotiations to reverse or dissolve the prior agreements. *Id.* These negotiations
10 broke down resulting in defendant retaining counsel. *Id.*

11 Plaintiff alleges that defendant has been contacting plaintiff's existing clients and directing
12 these clients to make payments directly to defendant. (ECF No. 1). Further, plaintiff contends
13 that defendant told plaintiff's primary vendor, Montroy Sign and Graphic Products ("Montroy"),
14 that defendant owned plaintiff and that Montroy was no longer to deal directly with plaintiff. *Id.*

15 On March 12, 2018, plaintiff filed its complaint in the Eighth Judicial District Court of the
16 State of Nevada alleging the following causes of action: (1) breach of contract; (2) unjust
17 enrichment; (3) money due and owing; (4) breach of implied covenant and good faith and fair
18 dealing; (5) intentional interference with contractual relationships; (6) intentional interference with
19 prospective economic advantage; (7) fraudulent inducement; and (8) injunctive and declaratory
20 relief. (ECF No. 1). On March 22, 2018, defendant removed the case to federal court. *Id.*

21 Under Federal Rule of Civil Procedure 65, a court may issue a temporary restraining order
22 when the moving party provides specific facts showing that immediate and irreparable injury, loss,
23 or damage will result before the adverse party's opposition to a motion for preliminary injunction
24 can be heard. Fed. R. Civ. P. 65. "Injunctive relief is an extraordinary remedy and it will not be
25 granted absent a showing of probable success on the merits and the possibility of irreparable injury
26 should it not be granted." *Shelton v. Nat'l Collegiate Athletic Assoc.*, 539 F.2d 1197, 1199 (9th
27 Cir. 1976).

1 “The purpose of a temporary restraining order is to preserve the status quo before a
2 preliminary injunction hearing may be held; its provisional remedial nature is designed merely to
3 prevent irreparable loss of rights prior to judgment.” *Estes v. Gaston*, no. 2:12-cv-1853-JCM-
4 VCF, 2012 WL 5839490, at *2 (D. Nev. Nov. 16, 2012) (citing *Sierra On-Line, Inc. v. Phoenix*
5 *Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984)). “Thus, in seeking a temporary restraining
6 order, the movant must demonstrate that the denial of relief will expose him to some significant
7 risk of irreparable injury.” *Id.* (quoting *Associated Gen. Contractors of Cal. v. Coal. of Econ.*
8 *Equity*, 950 F.2d 1401, 1410 (9th Cir. 1991)).

9 The Supreme Court has stated that courts must consider the following elements in
10 determining whether to issue a temporary restraining order and preliminary injunction: (1) a
11 likelihood of success on the merits; (2) likelihood of irreparable injury if preliminary relief is not
12 granted; (3) balance of hardships; and (4) advancement of the public interest. *Winter v. N.R.D.C.*,
13 555 U.S. 7, 20 (2008). The test is conjunctive, meaning the party seeking the injunction must
14 satisfy each element.

15 Additionally, post-*Winter*, the Ninth Circuit has maintained its serious question and sliding
16 scale test. *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). “Under
17 this approach, the elements of the preliminary injunction test are balanced, so that a stronger
18 showing of one element may offset a weaker showing of another.” *Id.* at 1131. “Serious questions
19 going to the merits and a balance of hardships that tips sharply towards the plaintiff can support
20 issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood
21 of irreparable injury and that the injunction is in the public interest.” *Id.* at 1135 (internal
22 quotations marks omitted).

23 The court, having considered the complaint, memorandum of law, supporting declarations,
24 and accompanying exhibits, hereby finds that plaintiff is likely to succeed in showing that
25 defendant breached the NDA, that defendant breached the covenant of good faith and fair dealing,
26 and that defendant intentionally interfered with existing and prospective contractual relationships.
27 Defendant contacted third parties, notably plaintiff’s vendors and clients, to inform them of
28 defendant’s ownership of plaintiff and to redirect payment directly to defendant. (ECF No. 1).

1 Based on the purchase agreement, plaintiff contends it is unambiguous that no transfer of
2 ownership had taken place yet. *Id.* Further, at the time this law suit was filed in state court, the
3 parties were engaged in efforts to negotiate a dissolution or reversal of their informal relationship.
4 *Id.* Defendant's subsequent actions and communications to third parties as to its purported
5 ownership of plaintiff appear to have been made in bad faith.

6 Further, plaintiff has adequately demonstrated that defendant's breach of the agreements
7 has and will continue to result in immediate and irreparable injury to plaintiff in the form of loss
8 of income and damage to plaintiff's relationships with its customers. By representing to customers
9 and vendors that defendant is the owner of plaintiff, defendant has caused plaintiff to lose one job
10 valued at \$350,000. (ECF No. 1). Plaintiff foresees similar harms to continue if defendant is not
11 enjoined from using the confidential information it gained access to as a result of the
12 buyout/merger negotiations.

13 Accordingly,

14 IT IS HEREBY ORDERED that plaintiff's motion for a temporary restraining order (ECF
15 No. 1) be, and the same hereby is, GRANTED consistent with the following.

16 IT IS FURTHER ORDERED that a preliminary injunction hearing is set for **Monday,**
17 **April 9, 2018, at 1:30 p.m.** in courtroom 6A.

18 IT IS FURTHER ORDERED that pending the preliminary injunction hearing, defendant
19 is temporarily restrained from the following:

- 20 (1) Contacting vendors or clients and former clients of plaintiff;
- 21 (2) Representing to any third party that defendant has an ownership interest in
22 plaintiff;
- 23 (3) Representing to any third party that defendant has authority to act on behalf of
24 plaintiff or bind the plaintiff in any way.


25 IT IS FURTHER ORDERED that plaintiff shall serve defendant with the summons, the
26 motion for preliminary injunction and the supporting declarations thereto, and the instant order on
27 or before March 30, 2018. Proof of service shall be filed on or before April 3, 2018.

1 IT IS FURTHER ORDERED that responses, if any, to plaintiff's motion for preliminary
2 injunction shall be filed on or before April 3, 2018. Replies, if any, shall be filed on or before
3 April 6, 2018.

4 IT IS FURTHER ORDERED that plaintiff shall deposit \$1,000.00 with the clerk of the
5 court, as security for this temporary restraining order, on or before March 30, 2018.

6 IT IS FURTHER ORDERED that this temporary restraining order shall expire fourteen
7 (14) days after entry.

8 DATED March 26, 2018.

9 
10 UNITED STATES DISTRICT JUDGE

11 TIME: 10:15 a.m.
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